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7                   **UNITED STATES DISTRICT COURT**  
8                   **SOUTHERN DISTRICT OF CALIFORNIA**  
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10 FASTVDO LLC,

11                   Plaintiff,

12                   Consolidated Case No.: 3:16-cv-00385-  
13                   H-WVG  
14                   **LEAD CASE**

15 v.

16 AT&T MOBILITY LLC, et al.,

17                   Defendants.

18  
19                   Member Cases:  
20                   3:16-cv-00386-H-WVG  
21                   3:16-cv-00394-H-WVG  
22                   3:16-cv-00395-H-WVG  
23                   3:16-cv-00396-H-WVG

24                   **ORDER ADMINISTRATIVELY**  
25                   **CLOSING THE CONSOLIDATED**  
26                   **ACTION**

27  
28 FASTVDO LLC,

Plaintiff,

Case No.: 3:16-cv-02499-H-WVG

v.

LG ELECTRONICS MOBILECOMM  
U.S.A., INC.,

Defendant.

ORDER ADMINISTRATIVELY  
CLOSING THE ACTION

1       On June 2, 2015, Plaintiff FastVDO LLC filed several complaints for patent  
2 infringement against Defendants Apple Inc., Samsung,<sup>1</sup> LG,<sup>2</sup> Huawei,<sup>3</sup> and ZTE (USA),  
3 Inc., among others,<sup>4</sup> in the United States District Court for the Eastern District of Texas,  
4 alleging infringement of U.S. Patent No. 5,850,482. (Doc. No. 1, Compl; 16-cv-386-Doc.  
5 No. 1; 16-cv-390-Doc. No. 1; 16-cv-394-Doc. No. 1; 16-cv-395-Doc. No. 1; 16-cv-396-  
6 Doc. No. 1.)<sup>5</sup> On September 28, 2015, Plaintiff filed an amended complaint against  
7 Defendants Apple and AT&T. (Doc. No. 32.) On January 29, 2016, the Eastern District  
8 of Texas court consolidated the actions for all pretrial issues, except venue. (Doc. No. 58.)

9       On February 11, 2016, the Eastern District of Texas court granted the parties' joint  
10 motion to transfer venue and transferred the consolidated action from the Eastern District  
11 of Texas to the Southern District of California. (Doc. Nos. 74, 75.) On February 18, 2016,  
12 the cases were transferred to the calendar of the Honorable Marilyn L. Huff. (Doc. No.  
13 77.) On February 29, 2016, FastVDO served Defendants with its notice of asserted claims.  
14 (See Doc. No. 70; Doc. No. 242 at 11.)

15       On June 16, 2016, Apple filed a petition for *inter partes* review with the Patent Trial  
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18       <sup>1</sup> Defendant "Samsung" refers to Samsung Electronics America, Inc. and Samsung Electronics  
19 Co., Ltd.

20       <sup>2</sup> Defendant "LG" refers to LG Electronics, Inc. and LG Electronics U.S.A., Inc.

21       <sup>3</sup> Defendant "Huawei" refers to Huawei Technologies Co., Ltd., Huawei Device Co., Ltd., Huawei  
22 Technologies USA, Inc., Huawei Device USA, Inc., and Futurewei Technologies, Inc.

23       <sup>4</sup> On September 9, 2015, the Eastern District of Texas Court dismissed Defendant Dell, Inc.  
24 without prejudice. (16-cv-395-Doc. No. 31.) On April 29, 2016, the Court dismissed Defendants NEC  
25 Corporation and NEC Corporation of America with prejudice. (Doc. No. 132.) On October 21, 2016,  
26 the Court dismissed Defendants AT&T Mobility LLC and AT&T Services, Inc. without prejudice.  
(Doc. No. 199.) On January 6, 2017, the Court dismissed Defendant Microsoft Mobile Inc. with  
prejudice. (Doc. No. 235.) Apple, Samsung, LG, Huawei, and ZTE remain as the current defendants in  
Consolidated Case No. 16-cv-385.

27       <sup>5</sup> All docket citations in this order are to the docket in Case No. 16-cv-385 unless otherwise noted  
28 in the citation.

1 and Appeal Board, challenging the validity of all of the asserted claims of the '482 patent.  
2 (Doc. No. 217-2, Cappella Decl. Ex. A.) On June 16, 2016, Microsoft and Samsung also  
3 filed a petition for *inter partes* review with the Patent Trial and Appeal Board, challenging  
4 the validity of four of the six asserted claims. (*Id.* Ex. B.)

5 On December 16, 2016, the PTAB granted Apple's petition, granted Microsoft and  
6 Samsung's petition, and instituted *inter partes* review of the '482 patent. (Doc. No. 217-  
7 2, Cappella Decl. Exs. C, D.) On January 23, 2016, the Court granted Defendants' motions  
8 to stay and stayed the present actions – Case Nos. 16-cv-385, 16-cv-386, 16-cv-394, 16-  
9 cv-395, 16-cv-396, and 16-cv-2499 – pending the IPR proceedings. (Doc. No. 269.)

10 On December 11, 2017, the PTAB issued a final written decision pursuant to 35  
11 U.S.C. § 318(a) and 37 C.F.R. § 42.73 in IPR 2016-01179, ordering that claims 1-3, 5, 6,  
12 12-14, 16, 17, and 28 of the '482 patent are unpatentable. (Doc. No. 281-1, Ex. 1.) On  
13 December 11, 2017, the PTAB also issued a final written decision in IPR 2016-01203,  
14 ordering that claims 1-3, 5, 7-10, 12-14, 16, 22-25, 28, and 29 are unpatentable. (Doc. No.  
15 281-2, Ex. 2.) On December 18, 2017, the parties filed a joint status report informing the  
16 Court of the PTAB's decisions. (Doc. No. 281.)

17 On January 16, 2018, the Court held a telephonic status hearing regarding the PTAB  
18 decisions. Marc A. Fenster appeared for FastVDO. Brian E. Ferguson appeared for Apple.  
19 Nicholas H. Lee appeared for Samsung. Alex Chachkes appeared for LG. Peter Wied  
20 appeared for Huawei. Timothy A. Horton appeared for ZTE. During the telephonic  
21 hearing, Plaintiff FastVDO stated that it intends to appeal both of the PTAB decisions to  
22 the Federal Circuit. Nevertheless, the Court, exercising its sound discretion, concludes that  
23 under these circumstances, it is appropriate to administratively close the actions pending  
24 the outcome of FastVDO's appeals to the Federal Circuit. At the telephonic hearing, each  
25 party stated that it did not object to the Court's decision to administratively close the case.

26 Accordingly, the Court directs the Clerk to administrative close Consolidated Case  
27 No. 16-cv-385 and Member Case Nos. 16-cv-386, 16-cv-394, 16-cv-395, and 16-cv-396,  
28 and Related Case No. 16-cv-2499. The parties must file a joint status report within seven

1 days from the date of any Federal Circuit decision regarding the PTAB proceedings. Upon  
2 completion of the appeals before the Federal Circuit, the parties may move to reopen the  
3 case, if necessary and as permitted by law, and provide suggestions to the Court on how to  
4 proceed in the actions.

5 **IT IS SO ORDERED.**

6 DATED: January 16, 2018

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8 MARILYN L HUFF, District Judge  
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